

110TH CONGRESS
2D SESSION

S. 3370

AN ACT

To resolve pending claims against Libya by United States
nationals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Libyan Claims Resolu-
3 tion Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act—

6 (1) the term “appropriate congressional com-
7 mittees” means the Committee on Foreign Relations
8 and the Committee on the Judiciary of the Senate
9 and the Committee on Foreign Affairs and the Com-
10 mittee on the Judiciary of the House of Representa-
11 tives;

12 (2) the term “claims agreement” means an
13 international agreement between the United States
14 and Libya, binding under international law, that
15 provides for the settlement of terrorism-related
16 claims of nationals of the United States against
17 Libya through fair compensation;

18 (3) the term “national of the United States”
19 has the meaning given that term in section
20 101(a)(22) of the Immigration and Nationality Act
21 (8 U.S.C. 1101(a)(22));

22 (4) the term “Secretary” means the Secretary
23 of State; and

24 (5) the term “state sponsor of terrorism”
25 means a country the government of which the Sec-
26 retary has determined, for purposes of section 6(j)

1 of the Export Administration Act of 1979 (50
2 U.S.C. App. 2405(j)), section 620A of the Foreign
3 Assistance Act of 1961 (22 U.S.C. 2371), section 40
4 of the Arms Export Control Act (22 U.S.C. 2780),
5 or any other provision of law, is a government that
6 has repeatedly provided support for acts of inter-
7 national terrorism.

8 **SEC. 3. SENSE OF CONGRESS.**

9 Congress supports the President in his efforts to pro-
10 vide fair compensation to all nationals of the United
11 States who have terrorism-related claims against Libya
12 through a comprehensive settlement of claims by such na-
13 tionals against Libya pursuant to an international agree-
14 ment between the United States and Libya as a part of
15 the process of restoring normal relations between Libya
16 and the United States.

17 **SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS**
18 **AGREEMENT.**

19 (a) DESIGNATION OF ENTITY.—

20 (1) DESIGNATION.—The Secretary, by publica-
21 tion in the Federal Register, may, after consultation
22 with the appropriate congressional committees, des-
23 ignate 1 or more entities to assist in providing com-
24 pensation to nationals of the United States, pursu-
25 ant to a claims agreement.

1 (2) AUTHORITY OF THE SECRETARY.—The des-
2 ignation of an entity under paragraph (1) is within
3 the sole discretion of the Secretary, and may not be
4 delegated. The designation shall not be subject to ju-
5 dicial review.

6 (b) IMMUNITY.—

7 (1) PROPERTY.—

8 (A) IN GENERAL.—Notwithstanding any
9 other provision of law, if the Secretary des-
10 ignates any entity under subsection (a)(1), any
11 property described in subparagraph (B) of this
12 paragraph shall be immune from attachment or
13 any other judicial process. Such immunity shall
14 be in addition to any other applicable immunity.

15 (B) PROPERTY DESCRIBED.—The property
16 described in this subparagraph is any property
17 that—

18 (i) relates to the claims agreement;

19 and

20 (ii) for the purpose of implementing
21 the claims agreement, is—

22 (I) held by an entity designated
23 by the Secretary under subsection
24 (a)(1);

25 (II) transferred to the entity; or

1 (III) transferred from the entity.

2 (2) OTHER ACTS.—An entity designated by the
3 Secretary under subsection (a)(1), and any person
4 acting through or on behalf of such entity, shall not
5 be liable in any Federal or State court for any ac-
6 tion taken to implement a claims agreement.

7 (c) NONAPPLICABILITY OF THE GOVERNMENT COR-
8 PORATION CONTROL ACT.—An entity designated by the
9 Secretary under subsection (a)(1) shall not be subject to
10 chapter 91 of title 31, United States Code (commonly
11 known as the “Government Corporation Control Act”).

12 **SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF**
13 **LIBYA.**

14 (a) IMMUNITY.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law, upon submission of a certification
17 described in paragraph (2)—

18 (A) Libya, an agency or instrumentality of
19 Libya, and the property of Libya or an agency
20 or instrumentality of Libya, shall not be subject
21 to the exceptions to immunity from jurisdiction,
22 liens, attachment, and execution contained in
23 section 1605A, 1605(a)(7), or 1610 (insofar as
24 section 1610 relates to a judgment under such

1 section 1605A or 1605(a)(7)) of title 28,
2 United States Code;

3 (B) section 1605A(c) of title 28, United
4 States Code, section 1083(c) of the National
5 Defense Authorization Act for Fiscal Year 2008
6 (Public Law 110–181; 122 Stat. 342; 28
7 U.S.C. 1605A note), section 589 of the Foreign
8 Operations, Export Financing, and Related
9 Programs Appropriations Act, 1997 (28 U.S.C.
10 1605 note), and any other private right of ac-
11 tion relating to acts by a state sponsor of ter-
12 rorism arising under Federal, State, or foreign
13 law shall not apply with respect to claims
14 against Libya, or any of its agencies, instru-
15 mentalities, officials, employees, or agents in
16 any action in a Federal or State court; and

17 (C) any attachment, decree, lien, execution,
18 garnishment, or other judicial process brought
19 against property of Libya, or property of any
20 agency, instrumentality, official, employee, or
21 agent of Libya, in connection with an action
22 that would be precluded by subparagraph (A)
23 or (B) shall be void.

24 (2) CERTIFICATION.—A certification described
25 in this paragraph is a certification—

1 (A) by the Secretary to the appropriate
2 congressional committees; and

3 (B) stating that the United States Govern-
4 ment has received funds pursuant to the claims
5 agreement that are sufficient to ensure—

6 (i) payment of the settlements re-
7 ferred to in section 654(b) of division J of
8 the Consolidated Appropriations Act, 2008
9 (Public Law 110–161; 121 Stat. 2342);
10 and

11 (ii) fair compensation of claims of na-
12 tionals of the United States for wrongful
13 death or physical injury in cases pending
14 on the date of enactment of this Act
15 against Libya arising under section 1605A
16 of title 28, United States Code (including
17 any action brought under section
18 1605(a)(7) of title 28, United States Code,
19 or section 589 of the Foreign Operations,
20 Export Financing, and Related Programs
21 Appropriations Act, 1997 (28 U.S.C. 1605
22 note), that has been given effect as if the
23 action had originally been filed under
24 1605A(c) of title 28, United States Code,
25 pursuant to section 1083(c) of the Na-

1 tional Defense Authorization Act for Fiscal
2 Year 2008 (Public Law 110–181; 122
3 Stat. 342; 28 U.S.C. 1605A note)).

4 (b) TEMPORAL SCOPE.—Subsection (a) shall apply
5 only with respect to any conduct or event occurring before
6 June 30, 2006, regardless of whether, or the extent to
7 which, application of that subsection affects any action
8 filed before, on, or after that date.

9 (c) AUTHORITY OF THE SECRETARY.—The certifi-
10 cation by the Secretary referred to in subsection (a)(2)
11 may not be delegated, and shall not be subject to judicial
12 review.

Passed the Senate July 31, 2008.

Attest:

Secretary.

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